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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/939,363	08/24/2001	John Reiner	CL1	3442

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EXAMINER

BUTLER, DOUGLAS C

ART UNIT	PAPER NUMBER
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3683

DATE MAILED: 03/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.



09/939363

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DATE MAILED:

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

☐ This application has been examined ☒ Responsive to communication filed on 12/27/02 ☐ This action is made final

A shortened statutory period for response to this action is set to expire 3 month(s), 0 days from the date of this letter.  
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- |                                                                                         |                                                                                   |
|-----------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------|
| 1. <input checked="" type="checkbox"/> Notice of References Cited by Examiner, PTO-892. | 2. <input type="checkbox"/> Notice of Draftsman's Patent Drawing Review, PTO-948. |
| 3. <input type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449.                 | 4. <input type="checkbox"/> Notice of Informal Patent Application, PTO-152.       |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474.     | 6. <input type="checkbox"/>                                                       |

Part II SUMMARY OF ACTION

1. ☒ Claims 1-6, 8-15, 17-18 are pending in the application.

Of the above, claims 7, 16 are withdrawn from consideration.

2. ☒ Claims 7, 16 have been cancelled.

3. ☒ Claims 9-13, 15 are allowed.

4. ☒ Claims 1-6, 8, 14, 17-18 are rejected.

5. ☐ Claims are objected to.

6. ☐ Claims are subject to restriction or election requirement.

7. ☐ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.

8. ☐ Formal drawings are required in response to this Office action.

9. ☐ The corrected or substitute drawings have been received on \_\_\_\_\_. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable; ☐ not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-948).

10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on \_\_\_\_\_, has (have) been ☐ approved by the examiner; ☐ disapproved by the examiner (see explanation).

11. ☐ The proposed drawing correction, filed \_\_\_\_\_, has been ☐ approved; ☐ disapproved (see explanation).

12. ☐ Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. \_\_\_\_\_; filed on \_\_\_\_\_.

13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

14. ☐ Other

EXAMINER'S ACTION

**PART III**

1. The amendment filed Dec. 27, 2002 (Paper No. 4) has been entered. The Power of Attorney (Paper No. 5) and Small Entity Statement (Paper No. 6) have been received.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 1-6, 8-15 and 17-18 are pending.

4. Claims 7 and 16 have been canceled.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-6 and 8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

There are no clear antecedent bases in the claims for "the air bag" of claim 1, line 7 [Note that claim 1, line 2 recites "an air spring".]; "the actuator shaft" of claim 3, last line; and "the linear actuator" of claim 6, line 2.

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7. Claim 14 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 14 recites "a stud" at line 3 which should be correlated with and/or distinguished from the "stud" of claim 10, line 4.

8. Claims 17-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

There is no clear antecedent basis in the claim 17 for "the channel" of claim 17, clause (d), line 1.

9. Claim 12, line 4 "the a" should be deleted. Similarly, in claim 13 "the a" should be deleted.

10. Page 5, line 1 "14" at its first occurrence should be changed to --20--.

11. Page 8, line 18 "151" should be changed to --154--.

12. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

13. Claims 1 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Long, Jr. (3120962), newly cited.

Figs. 1-9 of Long, Jr. disclose an actuator 60 attached to a rail/cross member arrangement at 16. Note that instant claim 1 does not define any of the rail and cross

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member structure not readable broadly on the frame-to-control mechanism 60 of Figs. 1, 5, 9 of Long, Jr. Note rod 81, 82 of Figs. 1, 9 of Long, Jr. readable as the rod/link of instant claim 1, lines 3-4 and claim 8 with the rod/link 81, 82 of Long, Jr. connected to the axle 10. Re the "valve" feature of instant claim 1, line 1, Fig. 9 of Long, Jr. discloses a spool valve which is movable as broadly claimed. Re the "control switch" feature of instant claim 1, the last two lines note manual switch 109 of Fig. 1 of Long, Jr. as per column 6, lines 3-16. Re instant claim 8, link or rod 81 is rotatable relative to link or rod 82 as broadly claimed. Fig. 1 of Long, Jr. shows air bags or springs 30, 30a.

14. Claims 2-6 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

15. Claims 9-13 and 15 are allowed. Claim 14 which depends on claim 10 will be allowed upon correction of its indefiniteness.

16. Claims 17-18 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

17. Applicant's arguments with respect to claims 1 and 8 have been considered but are moot in view of the new ground(s) of rejection.

18. Re the "manual switch" feature, note the manual switch at 98 in Fig. 8 of submitted Heider et al (4733876), *of record*.

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Exmr. Butler whose telephone number is (703) 308-

2/3  
3/1/03

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2575. The examiner can normally be reached on Monday to Friday from 5:30 a.m. to 2 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Lavinder, can be reached on (703) 308-3421. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-7687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Butler/kl  
March 5, 2003



DOUGLAS C. BUTLER  
PRIMARY EXAMINER

3/5/03

